



House of Representatives

General Assembly

File No. 373

January Session, 2003

House Bill No. 6518

House of Representatives, April 15, 2003

The Committee on Human Services reported through REP. VILLANO of the 91st Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING VOLUNTARY PATERNITY ESTABLISHMENT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-27 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 (a) Each hospital or other institution where births occur, and each
4 entity that agrees to participate in the voluntary paternity
5 establishment program, shall develop a protocol for a [hospital-based]
6 voluntary [acknowledgment of] paternity establishment program as
7 provided in regulations adopted pursuant to subsection (b) of this
8 section, which shall be consistent with the provisions of subsection (a)
9 of section 46b-172 and shall encourage the positive involvement of
10 both parents in the life of the child. Such protocol shall assure that the
11 participants are informed, are competent to understand and agree to
12 an affirmation or acknowledgment of paternity, and that any such
13 affirmation or acknowledgment is voluntary and free from coercion.

14 (b) The Commissioner of Social Services shall adopt regulations in
15 accordance with chapter 54 to implement the provisions of subsection
16 (a) of this section. Such regulations shall specify the requirements for
17 participation in the voluntary paternity establishment program and
18 shall include, but not be limited to, provisions (1) to assure that
19 affirmations of paternity by the mother and acknowledgments of
20 paternity by the putative father are voluntary and free from coercion,
21 and (2) to establish the contents of notices which shall be provided to
22 the mother and to the putative father before affirmation or
23 acknowledgment. The notice to the mother shall include, but not be
24 limited to, notice that the affirmation of paternity may result in rights
25 of custody and visitation, as well as a duty of support, in the person
26 named as the father. The notice to the putative father shall include, but
27 not be limited to, notice that: (1) [he] He has the right to: (A) Establish
28 his paternity voluntarily through court action, or to contest paternity; [,
29 including the right to] (B) appointment of counsel; [,] (C) a genetic test
30 to determine paternity [,] prior to signing an acknowledgement or in
31 conjunction with a court action; and (D) a trial by the Superior Court
32 or a family support magistrate, and [that] (2) acknowledgment of
33 paternity will make him liable for the financial support of the child
34 until the child's eighteenth birthday and may result in rights of
35 custody and visitation being conferred with the father. In no event
36 shall the mother's failure to sign an affirmation of paternity in the
37 hospital or with any other entity agreeing to participate in the
38 voluntary paternity establishment program be considered failure to
39 cooperate with the establishment of support for the purposes of
40 eligibility for temporary assistance for needy families.

41 (c) The Department of Public Health shall establish a voluntary
42 acknowledgment of paternity system consistent with the provisions of
43 subsection (a) of section 46b-172.

44 Sec. 2. Subdivision (5) of subsection (a) of section 17b-745 of the
45 general statutes is repealed and the following is substituted in lieu
46 thereof (*Effective October 1, 2003*):

47 (5) (A) Said court or family support magistrate shall also have
48 authority to make and enforce orders for the payment by any person
49 named herein of unpaid support contributions for which any such
50 person is liable in accordance with the provisions of subsection (b) of
51 section 17b-179, or section 17a-90, 17b-81, 17b-223, 46b-129 or 46b-130
52 or, in IV-D cases, to order such person, provided such person is not
53 incapacitated, to participate in work activities which may include, but
54 shall not be limited to, job search, training, work experience and
55 participation in the job training and retraining program established by
56 the Labor Commissioner pursuant to section 31-3t.

57 (B) In the determination of support due based on neglect or refusal
58 to furnish support prior to the action, the support due for periods of
59 time prior to the action shall be based upon the obligor's ability to pay
60 during such prior periods, as determined in accordance with the child
61 support and arrearage guidelines established pursuant to section 46b-
62 215a. The state shall disclose to the court any information in its
63 possession concerning current and past ability to pay. [With respect to
64 such orders entered on or after October 1, 1991, if] If no information is
65 available to the court concerning past ability to pay, the court may
66 determine the support due for periods of time prior to the action as if
67 past ability to pay is equal to current ability to pay, if current ability is
68 known. [or, if not known, based upon assistance rendered to the child.]
69 If current ability to pay is not known, the court shall determine the
70 past ability to pay based on the obligor's work history if known, or if
71 not known, on the state minimum wage that was in effect during such
72 periods, provided only actual earnings shall be used to determine
73 ability to pay for past periods during which the obligor was a full-time
74 high school student or was incarcerated, institutionalized or
75 incapacitated.

76 (C) Any finding [as to] of support due for periods of time prior to
77 [the action which is made without information concerning past ability
78 to pay] an action shall be entered subject to adjustment. [when such
79 information becomes available to the court.] Such adjustment may be
80 made upon motion of any party, [within four] and the state shall make

81 such motion if it obtains information that would have substantially
82 affected the court's determination of past ability to pay if such
83 information had been available to the court. Motion for adjustment
84 under this subparagraph may be made not later than twelve months
85 from the date upon which the obligor receives notification of (i) the
86 amount of such finding of support due for periods of time prior to the
87 action, and (ii) the right [within four] not later than twelve months
88 from the date of receipt of such notification to present evidence as to
89 such obligor's past ability to pay support for such periods of time prior
90 to the action. A copy of any support order entered, subject to
91 adjustment, that is provided to each party under subsection (c) of this
92 section, shall state in plain language the basis for the court's
93 determination of past support, the right to an adjustment to present
94 information concerning the obligor's past ability to pay, and the
95 consequences of a failure to request such adjustment.

96 Sec. 3. Subdivision (7) of subsection (a) of section 46b-215 of the
97 general statutes is repealed and the following is substituted in lieu
98 thereof (*Effective October 1, 2003*):

99 (7) (A) Said court or family support magistrate shall also have
100 authority to determine, order and enforce payment of any support due
101 because of neglect or refusal to furnish support prior to the action.

102 (B) In the determination of support due based on neglect or refusal
103 to furnish support prior to the action, the support due for periods of
104 time prior to the action shall be based upon the obligor's ability to pay
105 during such prior periods, as determined in accordance with the child
106 support and arrearage guidelines established under section 46b-215a.
107 The state shall disclose to the court any information in its possession
108 concerning current and past ability to pay. [With respect to such orders
109 entered into on or after October 1, 1991, if] If no information is
110 available to the court concerning past ability to pay, the court may
111 determine the support due for periods of time prior to the action as if
112 past ability to pay is equal to current ability to pay, if current ability is
113 known, [or, if not known, based upon assistance rendered to the child.]

114 If current ability to pay is not known, the court shall determine the
115 past ability to pay based on the obligor's work history, if known, or if
116 not known, on the state minimum wage that was in effect during such
117 periods, provided only actual earnings shall be used to determine
118 ability to pay for past periods during which the obligor was a full-time
119 high school student or was incarcerated, institutionalized or
120 incapacitated.

121 (C) Any finding [as to] of support due for periods of time prior to
122 [the] an action [which is made without information concerning past
123 ability to pay] in which the obligor failed to appear shall be entered
124 subject to adjustment. [when such information becomes available to
125 the court.] Such adjustment may be made upon motion of any party,
126 [within four] and the state shall make such motion if it obtains
127 information that would have substantially affected the court's
128 determination of past ability to pay if such information had been
129 available to the court. Motion for adjustment under this subparagraph
130 may be made not later than twelve months date from the date upon
131 which the obligor receives notification of (i) the amount of such
132 finding of support due for periods of time prior to the action, and (ii)
133 the right [within four] not later than twelve months from the date of
134 receipt of such notification to present evidence as to such obligor's past
135 ability to pay support for such periods of time prior to the action. A
136 copy of any support order entered, subject to adjustment, shall state in
137 plain language the basis for the court's determination of past support,
138 the right to an adjustment to present information concerning the
139 obligor's past ability to pay, and the consequences of a failure to
140 request such adjustment.

141 Sec. 4. (NEW) (*Effective October 1, 2003*) Notwithstanding any
142 provisions of the general statutes, whenever a child support obligor is
143 institutionalized or incarcerated, the Superior Court or a family
144 support magistrate shall establish an initial order for current support,
145 or modify an existing order for current support, upon proper motion,
146 based upon the obligor's present income in accordance with the child
147 support guidelines established pursuant to section 46b-215a of the

148 general statutes.

149 Sec. 5. Section 52-362j of the general statutes is repealed and the
150 following is substituted in lieu thereof (*Effective October 1, 2003*):

151 For the purposes of sections 52-362d, 52-362e, 52-362g, and 52-362h:

152 (1) "Past-due support" means any one or a combination of the
153 following: (A) Court ordered current support or arrearage payments
154 which have become due and payable and remain unpaid; (B) unpaid
155 support which has been reduced to a judgment or otherwise found to
156 be due by a court of competent jurisdiction, whether or not presently
157 payable; (C) support due for periods prior to an action to establish a
158 child support order. [, provided such amounts are based upon the
159 obligor's ability to pay during the prior periods if known or, if not
160 known, on the obligor's current ability to pay if known, or, if not
161 known, upon assistance rendered to the obligor's child.]

162 (2) "Overdue support" means a delinquency accruing after the entry
163 of an initial court order establishing a child support obligation.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>
Sec. 5	<i>October 1, 2003</i>

HS *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Type
Department of Social Services	GF - See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill makes several changes to the manner in which courts calculate how much certain non-custodial parents owe in past due child support. The bill allows the courts to take into account an individual's ability to pay based on prior work history and earnings, and whether the individual has been incarcerated or institutionalized. The changes in the bill may result in an increase in the workload to modify support orders, which would be borne by the Bureau of Child Support under the Department of Social Services (DSS). However, any such increase is expected to be minimal and will not require further appropriations. To the extent that these changes reduce the accrual of uncollectable arrearages, and thereby increase non-custodial participation in child support, DSS may realize savings in its collection efforts. Any such savings is expected to be minimal.

The bill also expands the voluntary paternity acknowledgement program to entities other than birthing hospitals. This change may reduce the number of support orders that must be initiated by the courts, thereby reducing the caseload for the family support docket. This change may also increase the overall number of paternity acknowledgements, which may minimally increase the federal incentive funds received by DSS. This increase in paternity acknowledgement will also result in a workload increase to the

Department of Public Health. However, any such increase is expected to be minimal and will not require further appropriations.

OLR Bill Analysis

HB 6518

AN ACT CONCERNING VOLUNTARY PATERNITY ESTABLISHMENT**SUMMARY:**

This bill changes the way courts calculate how much some noncustodial parents owe in past due child support (1) when their past or current ability to pay is unknown or (2) while attending high school, incarcerated, institutionalized, or incapacitated. It directs courts to follow the child support and arrearage guidelines to determine the amounts owed.

The bill also expands the entities that can participate in the Department of Social Services' (DSS) voluntary paternity acknowledgment program, which currently is restricted to hospitals and other childbirth facilities. It also requires more information about putative father's rights and the consequences of signing acknowledgments to be contained in the notice they get before signing a paternity acknowledgment.

EFFECTIVE DATE: October 1, 2003

PAST-DUE CHILD SUPPORT CALCULATIONS

By law, past-due child support is any combination of (1) court-ordered current or arrearage payments which are due but unpaid; (2) unpaid support specified in a court judgment or similar ruling, whether or not presently payable; and (3) support due for periods before an action to establish a support order was filed.

Courts currently may assign the total amount of state assistance the child received as the past-due support amount in cases under category (3) above if the father's past or current ability to pay is unknown.

The bill, instead, directs them to compute the past-due amount based on the obligor's work history, if known, or else on the state minimum wage that was in effect during the covered periods. It specifies that courts must use actual earnings for past periods during which the

obligor was a full-time high school student or was incarcerated, institutionalized, or incapacitated.

ADJUSTMENTS

The bill broadens the circumstances when a court can adjust its findings of the amount of past support that is due. Under current law, the court can make this adjustment when (1) there was no information available at the time the support order was issued as to the obligor's past ability to pay and (2) such information subsequently becomes available to the court.

The bill instead allows an adjustment under any circumstances, including when the obligor failed to appear at the hearing. The bill also extends, from four to 12 months after the obligor received the court order, the deadline for a party or the state to move for an adjustment. It requires the state to file an adjustment motion if it obtains information that would have substantially affected the court's determination of past ability to pay if the information had been available to the court.

The bill also requires the parents' copies of support orders that are subject to the adjustment process to state in plain language (1) the basis for the court's determination of past support and (2) their rights to request an adjustment and the consequences of not doing so.

ORDERS FOR CURRENT SUPPORT

When a child support obligor is institutionalized or incarcerated, the bill requires a judge or family support magistrate to use his actual income while in the institution or prison when establishing an initial order for current support or modifying an existing one. As in other cases, the court must follow the child support guidelines.

VOLUNTARY PATERNITY ESTABLISHMENT

The bill requires the DSS commissioner to amend regulations for the voluntary paternity acknowledgment program (which the bill renames the "voluntary paternity establishment program.") She must add provisions that specify requirements for program participation and encourage the positive involvement of both parents in the life of the child.

She must also add the following information to the notice the putative father is given before he signs the acknowledgment:

1. that he has the right to establish his paternity voluntarily through court action, and to a DNA test to determine paternity prior to signing an acknowledgment or in conjunction with a court action and
2. that an acknowledgment of paternity may result in rights of custody and visitation being conferred on him.

The current notice already advises him of his rights to (1) contest paternity, (2) have a lawyer appointed to represent him, (3) paternity testing, and (4) a trial. It also informs him that signing the acknowledgment will make him liable for child support until the child reaches age 18.

BACKGROUND

Child Support Guidelines

The guidelines provide a worksheet for use by attorneys, the courts, and the DSS Bureau of Child Support Enforcement in establishing the amount of support due. Using the form, the net incomes of the custodial and non-custodial parent are calculated and used in conjunction with a schedule (chart) to establish the basic child support obligation. Various adjustments are made to account for health insurance, unreimbursed medical expenses, childcare contributions, and support arrearages, if there are any.

Voluntary Acknowledgment of Paternity Program

Federal law requires states to have hospital-based programs for voluntary paternity acknowledgments. The objective of these programs is to facilitate at-birth paternity establishment for children born to unmarried parents. After receiving training from DSS, hospital staff provide mothers and fathers with written materials and verbal explanations regarding the rights and responsibilities of paternity establishment. They also assist them in completing acknowledgment and affirmation forms.

Related Bills

SB 973 makes many changes in DSS's child support enforcement program. SB 974 provides additional administrative remedies for delinquent child support collections. And sHB 6489 enhances court child support enforcement powers. The Human Services Committee favorably reported each of these bills.

COMMITTEE ACTION

Human Services Committee

Joint Favorable Report

Yea 18 Nay 0